

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

JOSE LUIS MENDEZ-REYNA,
Defendant.

NOS. CR-02-2098-WFN-1
CR-04-2029-WFN-1

ORDER

A pretrial conference and motion hearing was held July 6, 2010. The Defendant, who is in custody, was present and represented by Ricardo Hernandez; Assistant United States Attorney Jane Kirk represented the Government on behalf of Alexander Ekstrom. The parties indicated that plea negotiations are ongoing. The Court addressed pending pretrial motions.

Following the hearing, the Mr. Hernandez contacted the Court's staff and indicated that there had been a death in his family and the funeral date conflicted with the trial date. He further indicated that his client would be willing to sign a waiver of his speedy trial rights. If the parties reach a plea agreement, the Court requests that a copy of the proposed plea agreement be forwarded to the Court as soon as possible. *If the parties determine that this case will go to trial, counsel is requested to contact the Court ASAP to discuss scheduling the trial due to complications in the Court's calendar.* This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1 1. Defendant's Motion for Discovery, filed June 25, 2010, 2010, **CR-02 2098 Ct.**
2 **Rec. 145** and **CR-04-2029 Ct. Rec. 31**, is **GRANTED**.

3 2. Defendant's Motion for Disclosure of 404(b) and 609 Evidence, filed June 25,
4 2010, **CR-02-2098 Ct. Rec. 147** and **CR-04-2029 Ct. Rec. 33**, is **GRANTED**.

5 3. Defendant's Motion for Transcription of Grand Jury Testimony, filed June 25,
6 2010, **CR-02-2098 Ct. Rec. 149** and **CR-04-2029 Ct. Rec. 35**, is **GRANTED**. The
7 Government shall prepare and disclose, one week before trial, transcripts of the testimony
8 of grand jury witnesses who will be witnesses at trial pursuant to Rule 6(e)(3)(E)(I) of the
9 Federal Rules of Criminal Procedure.

10 4. Defendant's Motion to Compel Disclosure of Any and All Promises of Leniency
11 and/or Preferential Treatment and/or Any other Benefit to Informants, filed June 25, 2010,
12 **CR-02-2098 Ct. Rec. 151**, is **GRANTED**.

13 5. Defendant's Motion to Sever, filed June 25, 2010, **CR-02-2098 Ct. Rec. 152**, is
14 **DENIED AS MOOT**.

15 6. Defense counsel's oral request for a trial continuance is **GRANTED** based on
16 counsel's representation that the Defendant will waive speedy trial.

17 7. The jury trial set for **July 19, 2010** is **STRICKEN and RESET to August 2,**
18 **2010, at 1:00 p.m., in Yakima, Washington.**

19 8. A waiver of speedy trial is attached to this Order. The signed waiver must be
20 filed in both cases no later than **July 12, 2010, or the July 19, 2010 trial date will be**
21 **reinstated.**

22 9. The final pretrial conference and motion hearing set for **July 19, 2010** is
23 **STRICKEN and RESET to August 2, 2010, at 11:00 a.m., in Yakima, Washington.**

24 10. Trial briefs, motions in limine, requested voir dire and a set of proposed **JOINT**
25 **JURY INSTRUCTIONS** shall be filed and served on or before **July 20, 2010**. Jury
26 instructions should only address issues that are unique to this case, and shall include

1 instructions regarding the elements of each claim, any necessary definitions and a proposed
2 verdict form.

3 The Joint Proposed Jury Instructions shall include:

4 (a) The instructions on which the parties agree; and

5 (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed
6 version of an instruction upon which they do not agree). All jury instructions from the most
7 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by
8 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements
9 of LR 51.1(c).

10 Each party shall address any objections they have to instructions proposed by any
11 other party in a memorandum. The parties shall identify the specific portion of any proposed
12 instruction to which they object and shall elaborate the basis for the objection. Objections
13 asserting that an instruction sets forth an incorrect statement of law shall describe the legal
14 authority that supports this objection. Failure to file an objection and supporting argument
15 may be construed as consent to the adoption of an instruction proposed by another party.

16 11. The parties are requested to submit courtesy copies of witness and exhibit lists to
17 the Court no later than **12:00 noon the Thursday before trial.**

18 12. All time from the Court's receipt of a proposed plea agreement to be entered into
19 by the Defendant and the attorney for the Government until the change of plea or formal
20 notice that the Defendant will not enter a change of plea, will be **EXCLUDED** for speedy
21 trial purposes pursuant to 18 U.S.C. § 3161(h)(1)(G).

22 The District Court Executive is directed to file this Order and provide copies to
23 counsel.

24 **DATED** this 8th day of July, 2010.

25 s/ Wm. Fremming Nielsen
26 WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE

07-06